

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

IN RE: DIET DRUGS §  
(PHENTERMINE, FENFLURAMINE, §  
DEXFENFLURAMINE) PRODUCTS § MDL DOCKET NO. 02-20143  
LIABILITY LITIGATION §  
§

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THIS DOCUMENT APPLIES TO THE FOLLOWING PLAINTIFFS:

1. PAMELA DANOS

MOTION FOR LEAVE TO FILE  
PETITION FOR INTERVENTION

NOW INTO COURT, through undersigned counsel, come intervenors DARLEEN M. JACOBS (hereinafter "JACOBS") and ROBERT G. HARVEY, SR. (hereinafter "HARVEY") of the law firms of Jacobs & Sarrat and Robert G. Harvey, A.P.L.C., who respectfully move this Honorable Court to allow them to intervene in the original matter. As basis for this intervention, the intervenors assert that they have a legal interest in the pending matter and their rights would be prejudiced if not permitted to be included in the pending litigation.

WHEREFORE, DARLEEN M. JACOBS and ROBERT G. HARVEY, SR. respectfully request that this Honorable Court permit them to intervene in the pending litigation.

Respectfully submitted,

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DARLEEN M. JACOBS (#7208)  
*A Professional Law Corporation*  
823 St. Louis Street  
New Orleans, Louisiana 70112  
(504) 522-0155 and (504) 522-3287

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ROBERT G. HARVEY, SR. #18615  
2609 Canal Street, Fifth Floor  
New Orleans, Louisiana 70119  
(504) 822-2136

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

IN RE: DIET DRUGS §  
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DEXFENFLURAMINE) PRODUCTS § MDL DOCKET NO. 02-20143  
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ORDER

Considering the foregoing:

IT IS ORDERED that the intervenors, DARLEEN M. JACOBS and ROBERT G. HARVEY, SR., be permitted to intervene in the above captioned matter.

Philadelphia, Pennsylvania this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
JUDGE

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

IN RE: DIET DRUGS §  
(PHENTERMINE, FENFLURAMINE, §  
DEXFENFLURAMINE) PRODUCTS § MDL DOCKET NO. 02-20143  
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PETITION FOR INTERVENTION

The petition of DARLEEN M. JACOBS (hereinafter "JACOBS") and ROBERT G. HARVEY, SR. (hereinafter "HARVEY") of the law firms of Jacobs & Sarrat and Harvey, Jacobson & Glago, A.P.L.C., persons of the full age of majority and practicing attorneys in the City of New Orleans respectfully represents:

1.

Made defendants herein are:

- a) The Defendant, ION LABORATORIES, INC. is a Texas corporation with its principal place of business in Forth Worth, Texas. This Defendant does and did business in Louisiana and developed, manufactured and sold the aforementioned drugs in interstate commerce and in the State of Louisiana.
- b) The Defendant, SMITHKLINE BEECHMAN CORPORATION, is a Tennessee corporation with its principal place of business in Bristol, Tennessee. At all times material hereto, this Defendant was in the business of manufacturing, promoting, marketing, developing, selling and/or distributing the pharmaceutical drug phentermine hydrochloride, also known as Fastin, on information and belief, in the State of Louisiana. This Defendant does and did business in Louisiana and developed, manufactured and sold the aforementioned diet drugs in interstate

commerce and in the State of Louisiana.

- c) The Defendant, MEDEVA PHARMACEUTICALS, INC., d/b/a MEDEVA PHARMACEUTICALS, INC. is a Delaware corporation. At all times material hereto, this Defendant was in the business of manufacturing, promoting, marketing, developing, selling and/or distributing the pharmaceutical known as "Ionamin" Phentermine Resin in the State of Louisiana. All relevant times, Defendant engaged in business in Louisiana and developed, manufactured and sold the aforementioned drugs in interstate commerce and in the State of Louisiana.
- d) The Defendant, FISONS CORPORATION is a Delaware corporation. At all times material hereto, this Defendant was in the business of manufacturing, promoting, marketing, developing, selling and/or distributing the pharmaceutical known as "Ionamin" Phentermine Resin in the State of Louisiana. This Defendant does and did business in Louisiana and developed, manufactured and sold the aforementioned drugs in interstate commerce and in the State of Louisiana.
- e) The Defendant, TEVA PHARMACEUTICALS, U.S.A., INC., the parent company of Gate Pharmaceuticals, is a Delaware corporation. At all relevant times, this Defendant, either individually or in concert within its subsidiary Gate Pharmaceuticals, was engaged in the business of promoting, marketing, manufacturing and/or distributing the pharmaceutical phentermine (including but not limited to the brand name drug "Adipex"). Defendant does business in the State of Louisiana, and at all times relevant it developed, manufactured, and sold phentermine both in interstate commerce and in the State of Louisiana.
- f) The Defendant, GATE PHARMACEUTICALS, A DIVISION OF TEVA

PHARMACEUTICALS USA, INC. is a Delaware corporation with its principal place of business in the State of Pennsylvania. At all times material hereto this Defendant was in the business of manufacturing, promoting, marketing, developing, selling and/or distributing the pharmaceutical drug phentermine hydrochloride, also known as Adipex-P (hereinafter referred to as "Phentermine"). This Defendant does and did business in the State of Louisiana and developed, manufactured and sold the aforementioned drugs in interstate commerce and in the State of Louisiana.

- g) The Defendant, RUGBY LABORATORIES, INC., f/k/a as MODERN WHOLESALE DRUG CO., INC. and is now known as WATSON LABORATORIES. Watson Laboratories is a California corporation. At all times material hereto, this Defendant was in the business of manufacturing, promoting, marketing, developing, selling and/or distributing the pharmaceutical phentermine hydrochloride, hereinafter referred to as "phentermine" in the State of Louisiana. This Defendant does and did business in Louisiana and developed, manufactured and sold the aforementioned drugs in interstate commerce and in the State of Louisiana.
- h) The Defendant, GENEVA PHARMACEUTICALS, INC. is a Colorado corporation. At all times material hereto, this Defendant was in the business of manufacturing, promoting, marketing, developing, selling and/or distributing the pharmaceutical phentermine hydrochloride, hereinafter referred to as "Phentermine", in the State of Louisiana. This Defendant does and did business in Louisiana and developed, manufactured and sold the aforementioned drugs in

interstate commerce and in the State of Louisiana.

- i) The Defendant, INTERNEURON PHARMACEUTICALS, INC. is a foreign corporation, not authorized to do but doing business in this State, which is a citizen of a state other than Louisiana for purposes of diversity jurisdiction, and which at all relevant times was the manufacturer, marketer and/or seller of dexfenfluramine, fenfluramine and/or fen-phen, which drugs were developed, manufactured, transported to Louisiana, and sold to residents and domiciliaries of Louisiana, in interstate commerce; times material hereto, this Defendant was in the business of manufacturing, promoting, marketing, developing, selling and/or distributing the pharmaceuticals known as Pondimin and Redux. This Defendant does and did business in Louisiana and developed, manufactured and sold the aforementioned drugs in interstate commerce and in the State of Louisiana.
- j) The Defendant, EON LABS MANUFACTURING, INC. is a Delaware corporation. At all times material hereto, this Defendant was in the business of manufacturing, promoting, marketing, developing, selling and/or distributing the pharmaceutical phentermine hydrochloride, hereinafter referred to as "Phentermine", in the State of Louisiana. This Defendant does and did business in the State of Louisiana and developed, manufactured and sold the aforementioned drugs in interstate commerce and in the State of Louisiana.
- k) The Defendant, WYETH-AYERST PHARMACEUTICALS, INC. f/k/a Wyeth-Ayerst Laboratories, Inc., a division of American Home Products, Inc., is a Delaware Corporation and a subsidiary of American Home Products Corporation. At all times material hereto, this Defendant was in the business of manufacturing,

promoting, marketing, developing, selling and/or distributing the pharmaceuticals known as Pondimin and Redux. This Defendant does and did business in Louisiana and developed, manufactured and sold the aforementioned drugs in interstate commerce and in the State of Louisiana.

- l) The Defendant, WYETH LABORATORIES COMPANY is a subsidiary of American Home Products Corporation, and its principal place of business in Philadelphia, Pennsylvania. At all times material hereto, this Defendant was in the business of manufacturing, promoting, marketing, developing, selling and/or distributing the pharmaceutical drugs fenfluramine, also known as Pondimin (hereinafter referred to as "Pondimin") and dexfenfluramine hydrochloride, also known as Redux (hereinafter referred to as "Redux"). This Defendant does and did business in Louisiana and developed, manufactured and sold the aforementioned drugs in interstate commerce and in the State of Louisiana.
- m) The Defendant, WYETH COMPANY, f/k/a AMERICAN HOME PRODUCTS CORPORATION, is a Delaware corporation. At all times material hereto, this Defendant was in the business of manufacturing, promoting, marketing, developing, selling, and/or distributing the pharmaceutical known as Pondimin and Redux. This Defendant does and did business in Louisiana and developed, manufactured and sold the aforementioned drugs in interstate commerce and in the State of Louisiana.
- n) The Defendant, A. H. ROBINS COMPANY, INC. was a Delaware Corporation with its principal place of business in Richmond, Virginia and a subsidiary of American Home Products Corporation. On August 3, 1998, A. H. Robins

Company was merged into American Home Products and ceased to exist as a separate entity. At all time material hereto, this Defendant was in the business of manufacturing, promoting, marketing, developing, selling and/or distributing the pharmaceutical known as Pondimin. This Defendant does and did business in Louisiana and developed, manufactured and sold the aforementioned drugs in interstate commerce and in the State of Louisiana.

- o) PAMELA DANOS, a person of the full age of majority, residing in the Parish of Jefferson, State of Louisiana, and plaintiff in the above-captioned matter; who are indebted unto your intervenors for the following reasons to-wit:

2.

On or about November 24, 1997, PAMELA DANOS retained the services of JACOBS and HARVEY, to represent her for her damages associated with and arising out of his use of the prescription diet drugs fenfluramine (a/k/a "Pondimin"), dextfenfluramine (a/k/a Redux) and/or phentermine.

3.

At the time, PAMELA DANOS retained the services of JACOBS and HARVEY she signed an Assignment of Interest and Employment Agreement agreeing to attorney fees of 40% of all sums recovered, and all costs advanced by intervenors on their behalf as more fully set forth in the attached Employment Agreement. See Exhibit "A".

4.

Under the provisions of the contract and revised statutes 37:218, intervenor has acquired an interest in the outcome of this litigation, which interest is opposed to that of petitioners or the defendants herein, to the extent of an assignment of a vested interest in the subject matter of this

lawsuit and intervenor desires to claim those amounts from any recovery that may be made by petitioners herein.

5.

Intervenors provided clients with many hours of legal services, medical assistance, medical advances and advances toward the completion of this claim. On or about March 2, 2004 intervenor, JACOBS, received a letter from PAMELA DANOS discharging intervenor from the handling of her claim and advising she had retained the services of Michael G. Stag, 365 Canal St., Suite 2850, New Orleans, Louisiana, PAMELA DANOS discharged intervenors without just cause. Undersigned has attempted to contact PAMELA DANOS' attorney to no avail.

6.

Intervenors are entitled to 40% attorney fees out of any amount recovered on behalf of PAMELA DANOS, along with costs and expenses, all as reasonable under the premise, to be determined by the trier of fact.

WHEREFORE, intervenors pray that the plaintiff and defendants be served with a copy of this intervention and be required to appear and answer same and after all proceedings there be a judgment in favor of intervenors, DARLEEN J. JACOBS and ROBERT G. HARVEY, SR. and against the plaintiff, PAMELA DANOS, and defendants WYETH COMPANY f/k/a AMERICAN HOME PRODUCTS CORPORATION, WYETH-AYERST PHARMACEUTICALS, INC., f/k/a Wyeth-Ayerst Laboratories, Inc., a division of American Home Products, Inc., WYETH LABORATORIES COMPANY; A. H. ROBINS COMPANY, INC., ION LABORATORIES, INC., SMITHKLINE BEECHMAN CORPORATION, MEDEVA PHARMACEUTICALS, INC., FISONS CORPORATION, TEVA PHARMACEUTICALS, U.S.A., INC., GATE PHARMACEUTICALS, a division of TEVA PHARMACEUTICALS, USA, RUGBY

LABORATORIES, INC., GENEVA PHARMACEUTICALS, INC., INTERNEURON  
PHARMACEUTICALS, INC. and EON LABS MANUFACTURING, INC., recognizing  
intervenors interest in the claim of TIMOTHY DANOS against the named defendants, that  
intervenors are entitled to 40% of attorney fees plus costs and advances in the amount to be  
determined by the trier of fact, all as reasonable under the premises; and that the name of  
intervenors DARLEEN M. JACOBS and ROBERT G. HARVEY, SR. be included on any  
settlement drafts, settlement checks, compromises of judgments rendered in this matter inasmuch  
as intervenors were discharged without just cause and that intervenors be reimbursed  
all attorney fees and costs of this intervention and for all general and equitable relief.

Respectfully submitted,

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DARLEEN M. JACOBS (#7208)  
*A Professional Law Corporation*  
823 St. Louis Street  
New Orleans, Louisiana 70112  
(504) 522-0155 and (504) 522-3287

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ROBERT G. HARVEY, SR. #18615  
2609 Canal Street, Fifth Floor  
New Orleans, Louisiana 70119  
(504) 822-2136

PLEASE SERVE:

WYETH-AYERST PHARMACEUTICALS, INC.  
f/k/a Wyeth-Ayerst Laboratories, Inc.

&

WYETH LABORATORIES COMPANY

&

A. H. ROBINS COMPANY, INC.

&

AMERICAN HOME PRODUCTS CORPORATION

Through their attorneys of record

Kathleen A. Manning

Deborah Van Meter

McGlinchey Stafford

A Professional Limited Liability Company

643 Magazine Street

New Orleans, LA 70130

ION LABORATORIES, INC.

Through their attorney of record

Brooks & Phillips, L.L.P.

W. Luther Wilson

Post Office Box 2471

Baton Rouge, Louisiana 70821

SMITHKLINE BEECHMAN CORPORATION

Through their attorney of record

Mary Rudd Posey

Steen & Williamson, L.L.C.

110 Poydras St., Suite 1250

New Orleans, LA 70163-1250

MEDEVA PHARMACEUTICALS, INC.

d/b/a and/or f/k/a CELLTECH MEDEVA

Through their attorney of record

Christovich & Kearney, L.L.P.

Attorneys at Law

Terry C.Gay & Janet L.White

Suite 2300 Pan American Life Center

601 Poydras Street

New Orleans, LA 70130-6078

FISONS CORPORATION  
Through their attorney of record  
Peter C. Neger, Esq.  
Bingham Dana L.L.P.  
885 Third Avenue  
New York, NY 10022

GATE PHARMACEUTICALS  
A DIVISION OF TEVA PHARMACEUTICALS, USA  
Through their attorney of record  
James B. Irwin  
400 Poydras Street, Ste. 2700  
New Orleans, LA 70130

RUGBY LABORATORIES, INC.  
Through their attorney of record  
Leake, Andersson & Mann, L.L.P.  
Stanton E. Shuler, Jr.  
1700 Energy Centre  
1100 Poydras Street  
New Orleans, LA 70163-1701

GENEVA PHARMACEUTICALS, INC.  
Through their attorney of record  
Leake, Andersson & Mann, L.L.P.  
Stanton E. Shuler, Jr.  
1700 Energy Centre  
1100 Poydras Street  
New Orleans, LA 70163-1701

INTERNEURON PHARMACEUTICALS, INC.  
Through their attorney of record  
Kean, Miller, Hawthorne, D'Armond, McCowan & Jarman, L.L.P.  
Jason Cashio & Vance Gibbs  
Twenty-Second Floor  
One American Place  
Baton Rouge, LA 70825  
P. O. Box 3513  
Baton Rouge, LA 70821-3513

EON LABS MANUFACTURING, INC.

Through their attorney of record

Brooks & Phillips, L.L.P.

W. Luther Wilson

Post Office Box 2471

Baton Rouge, Louisiana 70821